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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,794	06/19/2001	Elizabeth C. Sanchez	5266-04000	6916

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EXAMINER

SRIVASTAVA, VIVEK

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/885,794

Applicant(s)

SANCHEZ ET AL.

Examiner

Vivek Srivastava

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3 – 7, 11, 14 – 16, 18, 20 – 29, 37 and 40 – 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Tomsen et al (US 2002/0104086).

Regarding claims 1, 16, 25, and 37 Tomsen discloses a system, method, device and carrier medium comprising program instructions for facilitating purchases during television viewing in an interactive television system. Tomsen discloses a local studio 106 (fig 2) or 'first source' which conveys television advertising content (see para [0019] and para [0020]) and a cable television operator 108 (see fig 2) which provides

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triggers, resources or announcements (see para [0029]) which provide supplemental content to the commercial displayed. It is noted that the supplemental information is displayed during the commercial (see para [0038]) It is noted that the supplemental content corresponds to the product display i.e. airline tickets (see para [0037] – [0038]). It is further noted that Tomsen inherently discloses a mechanism (located at the cable television provider 108) configured to combine the supplemental content and television commercial content for transmission via cable net 134 for display on a user's television 154 (see fig 2). Tomsen further discloses a receiver which receives the commercial and supplemental content and which displays the supplement content i.e. trigger during the commercial enabling a user to retrieve additional information or to engage in a transaction (see para [0047], [0026], [0038] and [0039]). It is noted that Tomsen necessarily discloses the claimed 'third source' located in the receiver which conveys the interactive supplemental URL, trigger, 'buy button' or 'info' to the television display after the interactive application is detected from the incoming television stream. Tomsen still further discloses, when the buy button (interactive application) is displayed, a user via command input from a webpad, can store information related to the product by selecting the buy button (see para [0047]). Tomsen further discloses the user can store the content for future review by deferring a transaction (see para [0042]) while still watching the commercial. Tomsen still further discloses the web pad can store the transaction information (see para [0043]) wherein the web pad had a display which displays transaction information enabling the television display to still display the commercial i.e. concurrent display of the transaction information and commercial (see

para [0040]). Thus Tomsen discloses the claimed 'wherein the user input is received and the information stored without interrupting presentation of the television programming content.

With regards to claim 25, the mechanism for performing the functions is processor 902 coupled to network interface receiver 906 in device 152 (see fig 9), the mechanism (processor 902) includes instructions and code enabling control operation for detecting data, presenting an indication, receiving a user's input and stores information relating to the product (see para [0052], [0039], [0040], [0047], [0059]).

Regarding claims 3, 4, 18, 23, 26, 27, 40 Tomsen discloses the claimed wherein the television programming content is television programming and wherein the television programming content comprises and advertisement (see para [0037], [0019]).

Regarding claims 5, 6, 20, 21, 28, 29, 41 and 42 Tomsen discloses a football television program can be presented with enhanced content relating to statistics (i.e. product) which is presented during a scene of the football game (see para [0060]). It is noted that a football television program is not created for selling the product.

Regarding claim 7, Tomsen discloses, as discussed above, inserting triggers or supplemental content associated with a commercial broadcast which meets the claimed the 'wherein the mechanism is configured to add said data to broadcast stream by tagging said broadcast stream with data' since applicants define tagging as inserting information into a broadcast stream to coincide with and advertisement for that product or service (see page 14 or specification).

Regarding claim 11, Tomsen discloses a plurality of indicators may be provided for a combination of purposes including buying, requesting additional information, etc. (see para [0038]). As discussed above, since the supplemental information is received from a second source, and since Tomsen discloses detecting data, presenting an indication, receiving a user input and storing information associated with first data, necessarily Tomsen discloses detecting data, presenting an indication, receiving a user input and storing information relating to second data since a plurality of indicators are provided.

Regarding claims 14 and 15, Tomsen discloses transmitting information to a handheld web pad (see para [0054], [0043], [0039]).

Regarding claims 22 and 24, Tomsen discloses transactions can be stored in the web pad, settop box, interactive broadcast system or storage location(s) in other suitable locations (see para [0043]). It is noted that the storage location is inherently coupled to the settop box.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tomsen et al (US 2002/0104086).

Regarding claim 2, Tomsen fails to disclose wherein the first source, second source and mechanism are located with a broadcast station.

Official Notice is taken it would have been well known to include multiple sources located in a broadcast station for the benefit of authoring or inserting data from various sources from a single location. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Tomsen to include the claimed first source, second source and mechanism are located within a broadcast station for the benefit of inserting data or authoring a video stream from a single location in lieu of multiple locations thus minimizing the cost and complexity associated with inserting data from a plurality of locations.

Claims 8 – 10, 12, 13, 17, 19, 24, 30 – 36, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomsen et al (US 2002/0104086) in view of Kenney et al (US 6,026,376).

Regarding claims 8, 17, 32 and 38 Tomsen discloses deferred transactions similar to a 'shopping cart' method (see para [0045]) in response to storing information but fails to disclose an application further configured to present a virtual shopping wherein the the virtual shopping cart is configured to include said product.

In analogous art, Kenney discloses an interactive virtual shopping facility (see col 2 lines 22 – 36) wherein user can view product advertisements (see col 4 lines 1- 5) for

retrieving additional information about a product in helping the user purchase a product. Kenney further teaches displaying a virtual shopping cart for placing products a user desires to purchase (see col 7 lines 1 – 24). It would have been obvious to modify Tomsen to include a virtual shopping cart to place items which have been stored for a deferred transaction. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Tomsen to include the claimed virtual shopping cart configured to include the product for the benefit of enhancing a viewer's interactive shopping experience.

Regarding claims 9, 10, 30, 31 Tomsen discloses transactions can be stored in the web pad, settop box, interactive broadcast system or storage location(s) in other suitable locations (see para [0043]). It is noted that the storage location is inherently coupled to the settop box.

Regarding claims 12, 19, 33 and 39 the combination of Tomsen and Kenney discloses the claimed limitation, wherein Kenney discloses a viewer interacting with a shopping cart (see 7 lines 1 – 24) and Tomsen discloses a purchase request for a product is initiated in response to interacting by the viewer (see para [0040], [0038], [0030]).

Regarding claim 13, Tomsen discloses a purchase request is submitted to merchants (see para [0030]).

Regarding claims 34 and 35, Tomsen discloses wherein the processor (or mechanism) controls operations for storing user information or instructions or 'second data' on storage medium 904 conveyed from a handheld web pad or 'computing device'

(see para [0052]). It is noted that the second data is not conveyed via the broadcast stream.

Regarding claim 36, Tomsen discloses conveying received broadcast data to the handheld webpad (see para [0054], [0043]).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (571) 272-7304. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272 – 7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs
10/17/05



VIVEK SRIVASTAVA
PRIMARY EXAMINER